

HOUSE BILL 422

By Sexton C

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 3; Title 67, Chapter 4, Part 20; Title 67, Chapter 4, Part 21 and Title 67, Chapter 6, relative to commercial motor vehicles powered by diesel fuel.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Public Highway Maintenance Act of 2015."

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 3, is amended by adding Sections 3 through 7 as a new part 15.

SECTION 3. As used in this part:

(1) "Commercial bus" means a motor vehicle designed for carrying more than ten (10) passengers, excluding the driver, and primarily used for the transportation of persons, whether for hire or for commercial purposes;

(2) "Commercial motor vehicle":

(A) Means a motor vehicle or combination of motor vehicles used in commerce to transport persons or property, whether for hire or for commercial purposes;

(B) Includes a commercial bus or a freight motor vehicle; and

(C) Does not include a special zone vehicle or a motor vehicle or combination of motor vehicles excluded from the definition of "commercial motor vehicle" in § 55-50-102;

(3) "Commercial purposes" means use in a trade or business;

(4) "Freight motor vehicle" means a motor vehicle that:

(A) Is used primarily to transport property, whether for hire or for commercial purposes;

(B) Consists of a straight truck or a truck tractor and semitrailer, trailer, or twin trailer combination;

(C) Has two (2) or more axles, including the axles on a truck tractor and semitrailer, trailer, or twin trailer; and

(D) Has a gross vehicle weight rating or gross combination weight rating of twenty-six thousand one (26,001) or more pounds;

(5) "Motor carrier" means a person who operates or causes to be operated a commercial motor vehicle on a public highway;

(6) "Special zone vehicle" means:

(A) A commercial motor vehicle that is to be operated exclusively within a zone limited to the streets of a municipality and to the public highways for a distance not to exceed fifteen (15) miles beyond the limits of the municipality, or in the case of municipalities located within a county having a metropolitan form of government, for a distance not to exceed the county line; or

(B) A commercial motor vehicle that is to be operated exclusively in a given county and adjoining counties; and

(7) "Trailer," "truck," "truck tractor," and "semitrailer" have the same meanings as defined in § 55-8-101.

SECTION 4.

(a) In addition to the tax imposed by this chapter on diesel fuel, and in addition to the fee imposed by Section 5 of this act, a motor carrier shall pay a surcharge at the rate of thirteen cents (13¢) per gallon of diesel fuel used by the motor carrier to operate or cause to be operated freight motor vehicles on public highways within this state.

(b) All revenue generated by the surcharge shall be allocated and distributed in the same order and manner as the diesel tax is allocated and distributed pursuant to § 67-3-905(a), as follows:

(1) One and sixty-two hundredths percent (1.62%) to the general fund;

(2) Twenty-four and seventy-five hundredths percent (24.75%) to the counties to become a part of the county highway fund in the following manner:

(A) Fifty percent (50%) equally among all counties;

(B) Twenty-five percent (25%) on the basis of population; and

(C) Twenty-five percent (25%) on the basis of area;

(3) Twelve and thirty-eight hundredths percent (12.38%) to municipalities, as defined in § 54-4-201, on the basis set out in § 54-4-203; and

(4) Sixty-one and twenty-five hundredths percent (61.25%) to the highway fund.

(c) The surcharge levied under this section shall be computed as provided in Section 6(a) of this act and reported and paid as provided in Section 7 of this act.

SECTION 5.

(a) In addition to the tax imposed by this chapter on diesel fuel, a motor carrier shall pay a highway maintenance fee at the rate of two and eighty-five hundredths cents (2.85¢) per mile for each commercial motor vehicle that the motor carrier operates or causes to be operated upon the public highways within this state and that has a gross vehicle weight rating or gross combination weight rating in excess of fifty-nine thousand nine hundred ninety-nine (59,999) pounds.

(b) All revenue generated by the highway maintenance fee shall be allocated and distributed in the same order and manner as the diesel tax is allocated and distributed pursuant to § 67-3-905(a), as follows:

- (1) One and sixty-two hundredths percent (1.62%) to the general fund;
- (2) Twenty-four and seventy-five hundredths percent (24.75%) to the counties to become a part of the county highway fund in the following manner:
 - (A) Fifty percent (50%) equally among all counties;
 - (B) Twenty-five percent (25%) on the basis of population; and
 - (C) Twenty-five percent (25%) on the basis of area;
- (3) Twelve and thirty-eight hundredths percent (12.38%) to municipalities, as defined in § 54-4-201, on the basis set out in § 54-4-203; and
- (4) Sixty-one and twenty-five hundredths percent (61.25%) to the highway fund.

(c) The fee levied under this section shall be computed as provided in Section 6(b) of this act and reported and paid as provided in Section 7 of this act.

SECTION 6.

(a) The surcharge imposed by Section 4 of this act shall be computed as follows: The number of gallons of diesel fuel used during the quarterly reporting period by freight motor vehicles operated on the public highways within this state shall be multiplied by the rate of the surcharge provided in Section 4(a).

(b) The highway maintenance fee imposed by Section 5 of this act shall be computed as follows: The number of miles operated during the quarterly reporting period by commercial motor vehicles on public highways within this state shall be multiplied by the rate of the highway maintenance fee provided in Section 5(a).

SECTION 7.

(a) A motor carrier who is subject to the surcharge imposed by Section 4 or the highway maintenance fee imposed by Section 5, or both, shall register with the department and file a report on forms prescribed by the department showing the number

of miles operated within this state and the number of gallons of diesel fuel used within this state during the reporting period, and any other information as may be reasonably required by the commissioner.

(b) The report shall be filed on the last day of the month following the close of each calendar quarter for which the report is due. If the last day of the month falls on a Saturday, Sunday, or legal holiday, the next business day shall be considered the due date. The report shall be filed even if no operations were conducted or no diesel fuel was used during the reporting period.

(c) The full amount of the highway maintenance fee or surcharge, or both, as applicable, imposed by this state shall be paid at the same time that the motor carrier transmits the report and no later than the quarterly due date set forth in subsection (b).

SECTION 8. Tennessee Code Annotated, Title 67, Chapter 4, Part 20, is amended by adding the following as a new section:

For any motor carrier domiciled in this state, there shall be allowed a credit against the sum total of the franchise taxes imposed by part 21, and the excise taxes imposed by this part, equal to the sum total of highway maintenance fees and surcharges paid to this state during the preceding four (4) calendar quarters under chapter 3, part 15. The amount credited shall be applied to the franchise and excise tax period corresponding to the calendar year in which the fees and surcharges were paid, or to the franchise and excise tax period ending on June 30 following the close of the fourth calendar quarter, if the franchise and excise tax period is measured on a fiscal year basis.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.